

Kelly Hamilton # 046036

Name and Prisoner/Booking Number

RRCC

Place of Confinement

1752 E. Arica Rd.

Mailing Address

Eloy, AZ 85131

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action)



FILED



LODGED

**Jan 09 2025**

CLERK U.S. DISTRICT COURT  
DISTRICT OF ARIZONA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Kelly Hamilton

(Full Name of Plaintiff)

Plaintiff,

v.

(1) Core Civic

(Full Name of Defendant)

(2) N.P. Awaal

(3) P.A. Montgomery

(4) \_\_\_\_\_

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. CV-25-00072-PHX-DWL (CDB)

(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

**JURY TRIAL DEMANDED**

☒ Original Complaint

☐ First Amended Complaint

☐ Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: \_\_\_\_\_

2. Institution/city where violation occurred: Red Rock Correctional Center / Eloy

**B. DEFENDANTS**

1. Name of first Defendant: Core Civic The first Defendant is employed  
as: Medical Contractor/ Provider at RRCC  
(Position and Title) (Institution)
2. Name of second Defendant: N.P. Awaal The second Defendant is employed as:  
as: medical provider at RRCC  
(Position and Title) (Institution)
3. Name of third Defendant: P.A. Montgomery The third Defendant is employed  
as: Medical Provider at RRCC  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_ The fourth Defendant is employed  
as: \_\_\_\_\_ at \_\_\_\_\_  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

**C. PREVIOUS LAWSUITS**

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? 1. Describe the previous lawsuits:
- a. First prior lawsuit:
1. Parties: Kelly Hamilton v. Arizona Board of Executive Clemency, et al.
  2. Court and case number: CV-24-03177-PHX-DWL (COB)
  3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) Still Pending
- b. Second prior lawsuit:
1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
  2. Court and case number: \_\_\_\_\_
  3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
- c. Third prior lawsuit:
1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
  2. Court and case number: \_\_\_\_\_
  3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

## D. CAUSE OF ACTION

## COUNT I

1. State the constitutional or other federal civil right that was violated: Eighth Amendment; Deliberate Indifference

2. Count I. Identify the issue involved. Check **only one**. State additional issues in separate counts.
- |                                                        |                                           |                                               |                                                  |
|--------------------------------------------------------|-------------------------------------------|-----------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation             |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____         |                                                  |

3. Supporting Facts. State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

1) I have been diagnosed with Chronic Hepatitis C since about 1986 and have been continuously incarcerated since before then due to a life sentence in Arizona. I have been at Red Rock Correctional Center since 2016.

2) Every six months or so I have had blood drawn for said Hepatitis C and a Chronic Care appointment with a provider.

3) At each appointment with NP Awaal over the years, she would tell me that my levels were steadily getting worse and that I needed the Hepatitis C treatment. However, she told me that she would not put in for me to receive the treatment because it was too expensive and it would only get approved if I was dying. NP Awaal told me this numerous times over the years.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

See paragraphs 10, 17, and 18) under supporting facts for injury.

## 5. Administrative Remedies:

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Count I? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Count I to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. See paragraphs 7)-13) for full breakdown of exhaustion of administrative remedies.

Pg. 3-B

Continued from Supporting Facts, Pg. 3-A

4) In 2020, P.A. Montgomery became my primary care provider and I started seeing him instead of NP Awaal for my Chronic Hepatitis C.

5) At each appointment with P.A. Montgomery we would discuss my need for the Hepatitis C treatment due to my levels getting worse over the years. He would tell me that he would put in for me to get the treatment, but, due to how expensive said treatment is, Core Civic would not approve it unless I were dying. P.A. Montgomery has told me this about every six months when we would go over my blood work.

6) Since being here at RRCC, my Fibrosis score has gone from F0-F1 to F2-F3. However, I am still told that, due to administrative policy, I am not damaged enough to receive the Hepatitis C treatment.

Pg. 3-C

Continued from Pg. 3-B

- 7) On October 03, 2024, after being told continually that I needed treatment for my Hepatitis C and that I would not receive it due to cost or policy, I submitted an Informal Complaint, starting the exhaustion process.
- 8) On October 29, 2024, after not receiving a response within time frame specified by Department Order 802-3.2, I followed Department Order 802-1.11 and moved on to the next step by submitting a Formal Grievance.
- 9) On November 22, 2024, I received a response to my Formal Grievance that was dated 11/06/2024. Said response by Fawn Beck states, "Per Arizona Contract can only treat fibrosis scores of symptomatic three and F4." This shows a non-medical reason for not treating my Hepatitis C.

Pg. 3-D

Continued from Pg. 3-C

10) On November 22, 2024 I submitted an appeal to my Grievance Response, exhausting administrative remedies.

11) On December 02, 2024 I received my appeal back unprocessed due to "untimely filing". They state the formal was answered on 11/06/24 and that my appeal on 11/22/24 is out of the five workday time frame. However, it says five workdays from when the response is received and said response was received 11/22/24 so my appeal submitted 11/22/24 was well within five workdays, since it was submitted the same day.

12) On December 05, 2024 my CO III emailed the Grievance Coordinator, verifying that I received the response on 11/22/24. However, the Grievance Coordinator didn't care and kept it unprocessed.

Pg. 3-E

Continued from Pg. 3-D

13) On December 09, 2024 I submitted another Informal Complaint to attempt to exhaust again. However, on 12/16/24 the Grievance Coordinator returned it Unprocessed, stating that my issues were addressed in my previous Unprocessed appeal. I'm unable to get past the Grievance Coordinator's mistakes and am being blocked from fully utilizing the Grievance process.

14) Core Civic has the policy, custom, or accepted practice of denying needed medical treatment due to cost constraints, contracts, and administrative concerns.

15) Core Civic, NP Awaal, and PA Montgomery know, or should know, that Untreated Hepatitis C can lead to severe internal organ damage or failure. This includes Chronic Liver disease, Cirrhosis, liver cancer, and death.



Pg. 3-F

Continued from Pg. 3-E

16) Due to NP Awaal's and PA Montgomery's refusal to request treatment for my Hepatitis C, after telling me I needed it, I have significant and irreparable damage to my liver. If this continues Untreated, it will become life-threatening.

17) Due to Core Civic's policy, custom, or accepted practice of denying needed medical treatment, I have significant and irreparable damage to my liver. If this continues Untreated, it will become life-threatening.

18) Due to this lack of treatment and deliberate indifference, I have been forced to suffer: (1) profuse sweating, (2) Lethargy, (3) body pains and aches, (4) trouble sleeping, (5) fatigue, (6) weakness, (7) headaches, (8) shaking, (9) dizziness, (10) blackouts, (11) fear of requiring a liver transplant, (12) fear of liver cancer, (13) fear of death.



Pg. 3-G

Continued from Pg. 3-F

19) Core Civic, NP Awaal, and PA Montgomery know, or should know, that refusing to treat me has dire consequences for my health, but still make the conscious decision not to treat me. I am 73 and serving a life sentence so I can not wait until I get out to get treated. This shows Deliberate Indifference to my serious medical needs in violation of the Eighth Amendment.

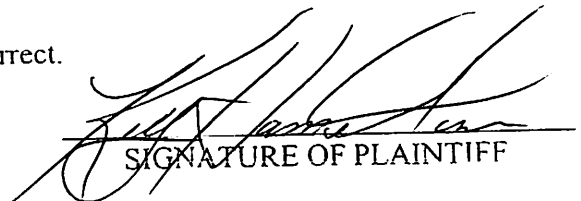
E. REQUEST FOR RELIEF

State the relief you are seeking:

- (A) Receive treatment to cure my Hepatitis C;
- (B) Change policy so Hep C treatment is more accessible;
- (C) Compensatory Damages;
- (D) Punitive Damages;
- (E) Costs of this suit with reasonable attorney's fees; and
- (F) Any further relief this Court deems proper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12-30-2024  
DATE

  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

\_\_\_\_\_  
(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.

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